Court No.3

Criminal Misc. Application No. 613/2001

(Old No. 6166/1988)

Madhur Kumar Saxena ...Petitioner.

Vs.

C.J.M.Chamoli and another ...Respondents.

Hon'ble Irshad Hussain, J.

None appear for the revisionist. Heard learned A.G.A. and perused the record.

From the perusal of the record it appear that a report was lodged by one Bachu Lal against Sub Divisional Magistrate with the allegations that in connection with the recovery of government dues he was unlawfully detained. After investigation final report was submitted on 5.8.1987 (Annexure-2). The learned Magistrate however by order dated 2.1.1988 (Annexure-2) took cognizance of the offence against the accused -revisionist. The order is contained in the said Annexure-2, which is the copy of the order sheet of the criminal case and from it, it is evident that the learned Magistrate has not taken into consideration the case diary and the evidence which was collected by the Investigating Officer. The order is non speaking and is not justified from any document which may have formed part of the case diary of the investigating officer. Apparently and ex-facie the impugned order dated 2.1.198 can not be legally justified and the same being improper there are cogent reasons to interfere with the same.

Having considered these aspects of the matter the order of taking cognizance as well as the criminal proceedings of criminal case No. 90 of 1988 pending in the court of C.J.M., Chamoli (Gopeshwar) against the accused-revisionist are quashed.

(Irshad Hussain, J.)

Dated: 27-9-2003

ISB